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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

SECOND PETITION TO WITHDRAW HOLDING OF ABANDONMENT

APPLICANT: Karlheinz DORN et al. GROUP ART UNIT: 2151
SERIAL NO.: 09/215,732 EXAMINER: C. Anya
FILING DATE: December 18, 1998 CONFIRMATION NO.: 1714
INVENTION: "INTERPRETIVE NETWORK DAEMON IMPLEMENTED BY
GENERIC MAIN OBJECT"

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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SIR:

In accordance with 37 CFR 1.181(a), Applicants hereby petition for withdrawal of the holding of abandonment and petition for revival of the above-identified application based on a failure to receive an office action.

Application History

In particular, the present application was filed on December 18, 1998, and a first Examiner's action was mailed to Applicants' representative on April 11, 2002, setting a three month shortened period for response. An Amendment "A" in response to the April 11, 2002, action was filed by Certificate of Mailing procedure with a three month extension of the response period on October 11, 2002.

On June 26, 2003, in a telephone conversation between the Examiner and Applicants' representative, the Examiner indicated that an action had been mailed by the Patent Office following the October 11, 2002, amendment. Applicants did not receive any such papers from the Patent Office following the October 11, 2002, amendment and inquired of the Examiner about getting a copy of the action, possibly with a resetting of the date. No such copy was received and nothing further occurred in this case until September 22, 2003.

The Examiner contacted Applicants' representative on September 22, 2003, regarding the failure to respond to the office action, which the Examiner indicated was mailed on December 31, 2002. In a series of four telephone communications from September 22, 2003, to September 24, 2003, the Examiner confirmed through his SPE that the action would not be re-sent and that the application was being held as abandoned so that a petition to withdraw the abandonment would be necessary.

First Petition To Revive Filed

A Petition To Withdraw Holding of Abandonment was filed on September 26, 2003, requesting that the abandonment be withdrawn and the application revived and showing that the Applicant's counsel had not received the office action following the October 11, 2002, amendment. The first petition to revive was filed before receipt of a notice of abandonment. No response has been received to the first Petition to Withdraw Holding of Abandonment.

Notice of Abandonment

Applicants' counsel has received a Notice of Abandonment dated November 26, 2003, holding the present application abandoned for failure to timely reply to an office action mailed on December 31, 2002. Numerous telephone calls to the Examiner following the receipt of the Notice of Abandonment were made. In these telephone calls, the Examiner indicated that the Petition to Withdraw Holding of Abandonment would be considered and, if granted, the missing office action would be forwarded to the Applicant. Follow up telephone calls were made to the Examiner and to the SPE requesting information on the progress of consideration of the Petition, resulting in Applicants' counsel being told that the Petition still had to be worked on.

Office Action Not Received

Applicants' representative has not received a substantive action from the Patent Office after the October 11, 2002, amendment. According to the usual practice and procedure in the office of the undersigned representative, Patent Office correspondence is received in the mailroom of the present firm and is forwarded to the Patent docketing department, where receipt of such correspondence is recorded in docketing software and is marked on the cover of the physical file folder, after which it is affixed inside the physical file. Applicants'

undersigned representative has reviewed his file in this case and finds no such action. Further, the front of the file folder has no markings indicating receipt of an action from the Patent Office, as shown in the enclosed copy of the file folder cover. Further, the record file of the docketing software for this case shows no action after the October 11, 2002, date, as evident from the enclosed print out of the docketing record file.

Declaration of Lynn Weidenfeller

Also enclosed is a Declaration of Lynn Weidenfeller, substantiating the statements herein and showing that no action has been received by Applicants' counsel.

Conclusion

Thus, Applicants' representative has shown non-receipt of the office action in accordance with MPEP §711.03(c), part II, and 1156 O.G. 53 (November 16, 1993). As such, Applicants hereby petition for withdrawal of the holding of abandonment. Further, Applicants respectfully request re-mailing of a copy of the missing action and resetting of the response period so that the issues raised therein may be addressed.

This petition is being filed within six months of receipt of the Notice of Abandonment and is timely filed. No proposed response is included herewith, as applicants have not yet received a copy of the action.

No fee is enclosed for this petition. In the event that the Commissioner determines that a fee is due, the fee may be deducted from counsel's deposit account no. 501519.

Favorable consideration of the present petition is hereby requested.

Respectfully submitted,



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CUSTOMER NO. 26574

ATTORNEY FOR APPLICANT



CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to:

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on May 26, 2004.

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